

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLN. NO.: 10/743,246 CONFIRMATION NO.: 6962
APPLICANT: William J. Garrison et al. TC/ART UNIT: 2621
FILED: December 22, 2003 EXAMINER: Daniel T. Tekle
TITLE: METHOD AND APPARATUS FOR REPRESENTING STORAGE
CAPACITY ALLOCATION OF AN AUDIO/VIDEO RECORDING DEVICE

Pre-Appeal Brief

This reply is being filed electronically

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This communication is responsive to the final Office Action mailed July 6, 2010 concerning the above-identified application and a one month extension is being submitted herewith. Applicant respectfully requests the rejection to be withdrawn at least for the following reasons.

REMARKS

I. Introduction

Claims 1-20 are pending in the above application.

Claims 1-6 and 8-20 stand rejected under 35 U.S.C. § 102 as being anticipated.

Claim 7 stands rejected as being unpatentable under 35 U.S.C. § 103.

Claims 1, 10 and 14 are independent claims.

II. Prior Art Rejections

Claims 1-6 and 8-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ficco (US 2002/0054750).

Applicant has amended the claims to clarify the invention. Applicant therefore respectfully requests reconsideration of the rejection of claims 1-6 and 8-20 under 35 U.S.C. § 102(b) as being anticipated by Ficco as herein amended.

Anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed in a prior art reference as arranged in the claim. See, *IPXL Holdings, L.L.C. v. Amazon.com, Inc.*, 430 F.3d 1377, 1380 (Fed. Cir. June 2006) “a claim is anticipated under 35 U.S.C. § 102 ‘if each and every limitation is found either expressly or inherently in a single prior art reference’” citing, *Bristol-Myers Squibb Co. v. Ben Venue Labs, Inc.*, 246 F.3d 1368, 1374 (Fed. Cir. 2001). See also, *Akzo N.V. v. U.S. Int’l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986); *Connell v. Sears, Roebuck & Co.*, 220 USPQ 193, 198 (Fed. Cir. 1983).

Ficco does not teach each and every element of the above amended claims. As explained in Applicant’s previous response, Ficco merely provides a DVR control mechanism which provides an indication of the **current** available recording space on a DVR. Ficco does not produce a “temporally dynamic indicia representative of allocation of said capacity of said storage unit over said predetermined time period **in response to said quantity of AV program data, said storage schedule, and said deletion schedule**, wherein **said predetermined time period is a future time period from a current time of identifying said quantity of AV program data stored on said storage unit**, as substantially set forth in at least amended claim

1. Ficco does not consider material which is to be deleted in relation to available disk capacity in a period of time, nor consider a storage schedule comprised of a first and second program. The Office action does not appear to address these features of Applicant's claims.

Ficco merely illustrate a "gas gauge" which indicates a current DVR condition. Specifically, among other aspects, Figure 9 of Ficco illustrates a selection menu associated with controlling a DVR, element 520 illustrates a selection for viewing a "Disk Gas Gauge", element 525 illustrates a selection for setting an "Out-Of-Disk (OOD)" alert; element 530 illustrates a selection for monitoring "Prog. Length v. Storage Cap."; and element 535 illustrates a selection for setting "File Attributes" for programs recorded on the disk. See, ¶s [0099-0101]. The "Disk Gas Gauge" (element 520) is further illustrated in Figs. 12(a)-12(e) and discussed in ¶ [106-107] as pertaining to material which is already recorded, *i.e.* an indication of "the percent of the HDD 320 that **has been consumed by recorded material**" (quoting from ¶ [0106], bold added for emphasis). The disk gas gauge does not consider material which is to be deleted in relation to available disk capacity in a period of time, nor consider a storage schedule comprised of a first and second program.

The "OOD" alert is further discussed in Figs. 13(a)-13(c), and discussed in paragraphs [0108-0111] as relating to material already recorded and program to be recorded, *i.e.* being determined by an "algorithm preset within host processor 310, which compares the program length of a desired event or broadcast that is to be recorded **with the remaining storage capacity in HDD 320**" (quoting from ¶ [0111], bold added for emphasis). The OOD also does not consider material which is to be deleted in relation to available disk capacity in a period of time, nor consider a storage schedule comprised of a first and second program.

The "Prog. Length v. Storage Cap." feature is further illustrated in Figs. 14(a)-14(c), and discussed in paragraphs [0112-0113] as relating to the currently recorded program and available disk space, *i.e.* "the program that has begun to be recorded, informing the user of the program length as well **as the recording time available**" (quoting from ¶ [0112], bold added for emphasis). This feature also does not discuss consideration of materials which are to be deleted in relation to available disk capacity in a period of time, nor consider a storage schedule comprised of a first and second program.

The "File Attributes" selection is further illustrated in Figs. 15-23(c), and discussed in ¶ [0114-0128] as relating to a mechanism to select attributes of individual files that are stored on

the disk. Fig. 15 provides a selection of attributes that may be chosen for a stored file. See, ¶ [0116]. The Office action directs Applicant's attention to Fig. 21(a)-21(c), which discusses the "Save Options" attribute 546 of a recorded program in Fig. 15, *i.e.* "illustrate the information that may be displayed upon selection of cell 546 in Fig. 15" (quoting from ¶ [0123]). The "Save Option" attribute is discussed as allowing the user to "select the desired time at which the recorded program (or to be recorded program) is to remain archived before being erased" (quoting ¶ [0124]). Clearly, the attribute is being set for an individual program. Ficco does not disclose any attempt to determine an allocation of capacity over a period of time based on the chosen storage time for a program. This feature also does not discuss consideration of materials which are to be deleted in relation to available disk capacity in a period of time, nor consider a storage schedule comprised of a first and second program.

In response to the above, while the Examiner's response may not be fully understood, the Examiner appears to assert that Ficco "paragraph 102 discloses a live recording video signal which is video data have not stored yet; Fig. 12a-12e and fig. 13a-13c shows storage status which includes capacity storage, recorded program, remaining space ...". However, this portion of Ficco is clearly showing the current condition of the DVR, *i.e.* all of the features shown are the current state of the DVR. It is not showing a future condition of such. Further, the conditions shown are not in response to quantity of AV program data, said storage schedule, and said deletion schedule. Ficco does not discuss at least a deletion schedule, and the rejection does not address such.

Accordingly, as Ficco does not teach each and every limitation of the above claims, Ficco does not anticipate the above claims.

Rejection of Claim 7 under 35 U.S.C. § 103(a) as being unpatentable over US 2002/0054750 (Ficco) in view of US 6671454 (Kaneko)

Kaneko fails to overcome the deficiencies of Ficco, and the Office action does not appear to rely on Kaneko for such. Dependent claim 7 depends from, and includes all the limitations of independent claim 1, that is shown to be allowable. Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 7 under 35 U.S.C. 103(a) as being unpatentable over Ficco and Kaneko is respectfully requested.

III. Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Such action is earnestly solicited by the Applicant. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant's attorney or agent at the telephone number indicated below.

Please charge any fees that may be due to Deposit Account 505278, Motorola, Inc.

Dated: November 8, 2010

Respectfully submitted,

By: /Larry T. Cullen/
Larry T. Cullen
Registration No.: 44,489

Motorola Connected Home Solutions
101 Tournament Drive
Horsham, PA 19044
(215) 323-1907